

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA

CALLA WRIGHT, *et al*)
)
Plaintiffs,)
vs.)
) 5:13-cv-00607
)
THE WAKE COUNTY BOARD OF)
ELECTIONS)
)
Defendant.)

RALEIGH WAKE CITIZENS)
ASSOCIATION, *et al*)
)
Plaintiffs,)
vs.)
) 5:15-cv-00156
)
THE WAKE COUNTY BOARD OF)
ELECTIONS)
)
Defendant.)

DECLARATION OF SCOTT W. WARREN

NOW COMES Scott W. Warren, who under penalty of perjury states as follows:

1. I am over 18 years of age, legally competent to give this declaration, and have personal knowledge of the facts set forth in it.
2. I am a duly licensed and practicing attorney at law and have been since 1987. I presently serve as the County Attorney for Wake County having been appointed in 2007.

3. As County Attorney I have responsibility for representation of the Wake County Board of Commissioners and the various departments and divisions of Wake County.

4. From time to time, the County of Wake or one of its departments or agencies is the subject of litigation which may present potential conflict. This conflict may be in to form of conflicting opinions or objectives between differing county constituents. See generally Rule of Professional Conduct 1.13, Comment 9.

5. In the event of a conflict, I will retain outside counsel.

6. In these above referenced cases, Wake County Board of Elections was initially sued as a defendant. Because the local Board of Elections neither passed the contested legislation nor was it involved in any aspect of its adoption, I immediately reached out to Anita Earls, counsel for plaintiffs and asked her to consider dismissing the Board of Elections. I asked her this since the county Board of Elections was not involved in the redistricting legislation; it had no authority to redistrict; it had no authority to offer to settle or make any changes to the legislation; and the only action the Board of Elections could take was to carry out the election for whatever districts were legal at the time, whether mandated by the legislature or the courts, or both. I told her we could stipulate that the Wake County Board of Elections would abide by and carry out whatever districts were finally determined to be lawful.

7. My recollection was that she said she would consider that and get back to me. However, she did not get back with me but she did follow this with a motion to amend to bring in the legislative leaders as defendants.

8. Brooks, McLendon, Humphrey & Leonard, L.L.P. was retained as outside counsel. Charles Marshall, the lead attorney, billed at an hourly rate of \$360.00 an hour and two associates billed a rate of \$210.00 an hour. Mr. Marshall has experience in federal court litigation, constitutional law, and state election law generally.

9. Through November 30, 2016, Brooks Pierce has billed the Board of Elections a total of \$243,119.06 for attorneys' fees in this matter.

10. The expenses for this case as well as any attorneys' fee award are unbudgeted for the Wake County Board of Elections. There is no budget line item for this case and the County Commissioners will have to allocate funds for any further expenses from the general fund, which is heavily funded by the citizens of Wake County through payment of ad valorem property taxes.

11. In federal litigation against the county, we have other attorneys in the Wake County Attorney's office with federal court experience in Title VII, § 1983, FMLA, ADA and civil rights litigation and we handle the majority of those cases in house. However, in other cases when the County is required to retain outside counsel because of a conflict or otherwise, we regularly pay no more than \$280.00 for defense of civil rights litigation to attorneys who have over twenty-five years of litigation experience.

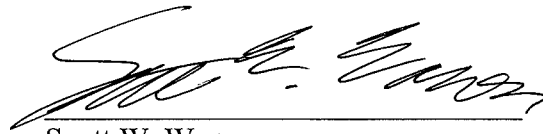
12. In my experience, this is the first time a county Board has been sued on a redistricting issue.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge.

[SIGNATURE APPEARS ON NEXT PAGE]

This the 21st day of December, 2016.

By:

A handwritten signature in black ink, appearing to read "Scott W. Warren", written over a horizontal line.

Scott W. Warren